

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

MARY TORMA-KELLY,

Plaintiff,

-against-

03-CV-802  
(LEK/DEP)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on September 29, 2005, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York.

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," Fed. R. Civ. P. 72(b), in compliance with L.R. 72.1. In the interval of at least fifteen days since the Magistrate Judge filed the subject Report-Recommendation, no objections to it have been raised. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

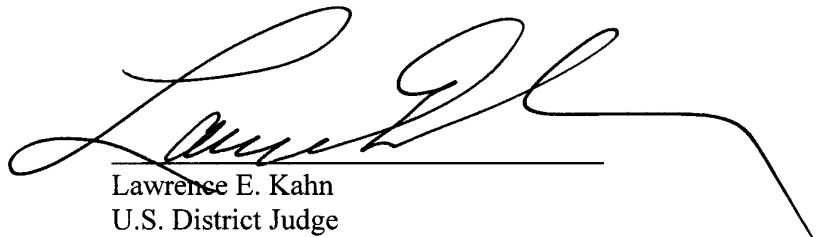
**ORDERED**, that the plaintiff's motion for judgment on the pleadings is **GRANTED**, the

Commissioner's finding of no disability is **VACATED**, and the matter is **REMANDED** to the agency with the directed finding of disability for the purpose of the calculation of benefits; and it is further

**ORDERED**, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: November 15, 2005  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge